

Case No: OKUDP0108US

**PATENT**

CERTIFICATE OF MAILING OR ELECTRONIC TRANSMISSION UNDER 37 CFR 1.8(a)

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/Mark D. Saralino/  
Mark D. Saralino

December 11, 2009  
Date

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of: Yasuyuki KUROSAWA

Application No.: 10/529,380

Filing Date: March 29, 2005

For: DATA PROCESSOR

Examiner: Kuen S. Lu

Art Unit: 2156

**Mail Stop AF**  
**Commissioner for Patents**  
**P.O. Box 1450**  
**Alexandria, VA 22313-1450**

**REQUEST FOR PRE-APPEAL BRIEF CONFERENCE**

Sir:

Applicant hereby requests for a Pre-Appeal Brief Review of the decision of the Primary Examiner mailed July 16, 2009 finally rejecting claims 1-21. This request is being filed with a notice of appeal. No amendments are being filed with this request.

Favorable review and reconsideration of the above-identified application is respectfully requested for the reasons stated on the attached sheets.

Should any additional fees be necessary for the filing of this request, Applicant hereby authorizes the Commissioner to charge said fees to Deposit Account No. 18-0988.

Respectfully submitted,

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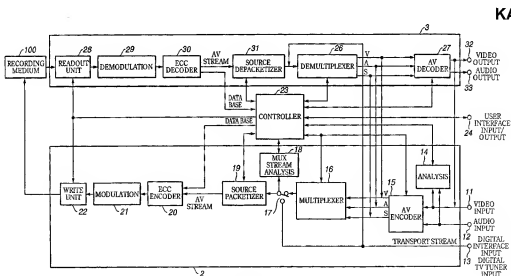
## REASONS IN SUPPORT OF REQUEST FOR REVIEW

Claims 1-21 stand rejected under 35 USC §102(e) as anticipated by Kato (US Patent Application Publication 2002/0150383). However, as set forth below, the Examiner has improperly construed the teachings of Kato. Furthermore, the Examiner has failed to sufficiently address Applicant's arguments regarding the deficiencies of Kato. The focus of the Examiner's remarks has been the claimed first and second encoding processes. However, irrespective of the type of encoding processes taught by Kato, the independent claims recite features that Kato fails to teach or suggest.

***1. The Examiner improperly construes the AV data stored on the recording medium of Kato as the claimed first data stream that is stored on the storage medium***

The independent claims recite, *inter alia*, that the storage medium has stored thereon a first data stream being represented by a video signal that has been encoded by a first encoding process.

With reference to Figure 1 of Kato, the Examiner interprets the encoding (15) of the AV signal stream of Kato as a first encoding process and the packetizing (19) of the multiplexed encoded data stream of Kato as a second encoding process. (see final Office Action, page 13.)



**FIG.1**

That is, in relation to the claim language, the output of the encoder (15) of Kato is interpreted by the Examiner to be the first data stream being represented by a video signal that has been encoded by a first encoding process, and the output of the packetizer (19) of Kato is interpreted to be the second data stream encoded by a second encoding process, which is different from the first encoding process.

However, the data stream output by the AV encoder (15) of Kato is converted by the packetizer (19), not stored on the recording medium (100). Specifically, AV signals are input, encoded (15), multiplexed (16), packetized (19), and written (22) to a recording medium (100).

Accordingly, Kato does not teach or suggest a storage medium having stored thereon a first data stream being represented by a video signal that has been encoded by a first encoding process, as recited in the claims. Only the data stream output by the packetizer (19) (i.e., the second data stream) is taught to be stored on the recording medium (100).

***II. The Examiner improperly construes the storage of the recorded AV data and the storage of the management information file to the recording medium of Kato as the claimed storage of both the first data stream and the second data stream***

This distinction set forth above is further defined, for example, in claims 2 and 12, which recite storing the first data stream on the storage medium and storing the second data stream on another storage medium.

The Examiner contends that the limitations of claims 2 and 12 are taught by the storage of both the data stream output by the packetizer (19) of Kato (i.e., the second data stream) and the management information file of Kato on the recording medium (100).

Kato discloses the storage of *one* data stream and a corresponding management file to a same recording medium, and the one data stream that is stored on the storage medium in Kato is the packetized (19) stream (i.e., the second data stream). Kato does

not disclose that the data stream output by the AV encoder (15) of Kato (i.e., the first data stream) is stored on a storage medium.

Accordingly, Kato does not teach or suggest storing the first data stream on the storage medium and storing the second data stream on another storage medium, as recited in claims 2 and 12.

***III. The Examiner improperly construes the creation of the management information file in Kato as the claimed first playlist information used to manage playback of the first data stream***

The independent claims further recite that first playlist information is acquired which is used to manage playback of the stored first data stream.

In rejecting the independent claims, the Examiner takes the position that the management information file created by the controller (23) during the recording process of Kato discloses the claimed first playlist information, and the selection of playlist information during the playback process of Kato discloses the second playlist information. (see final Office Action, page 15.)

With continuing reference to above-reproduced Figure 1 of Kato, a controller (23) creates a management information file based on information input by the user (24) (e.g., information specifying the playback domain, bookmarks, resuming points, etc.) in relation to the AV signals, and the management information file is also written to the recording medium (100). Subsequently, to initiate reproduction of the recorded AV data, the controller (23) retrieves the management information file from the recording medium (100) and uses it in conjunction with the user interface (24) for purposes of allowing the user to control the playback of the recorded AV data (e.g., random access playback or special playback).

To the extent that the Examiner considers the management information file created by the controller and the selection of playlist information to be the respective first and second playlist informations, both manage playback of the packetized data stream (i.e., the second data stream) that is stored on the recording medium.

That is, the management information file does not manage playback of the AV encoded data stream (i.e., the first data stream), which is not stored.

Accordingly, Kato does not teach or suggest that first playlist information is acquired which is used to manage playback of the stored first data stream, as recited in the claims.

#### ***IV. Conclusion***

For at least the above reasons, Applicant respectfully submits that the Examiner's rejection of claims 1-21 based on Kato is improper. Accordingly, Applicant respectfully requests that the rejections under 35 USC §§102(e) be withdrawn. All claims 1-21 are believed to be allowable and the application is believed to be in condition for allowance. A prompt action to such end is earnestly solicited.